

IDAPA 08 – STATE BOARD OF EDUCATION

08.03.01 – RULES GOVERNING THE CHARTER SCHOOL COMMISSION

DOCKET NO. 08-0301-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 3, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-5213, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later May 18, 2005.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission adopted an initial set of Rules Governing the Public Charter School Commission at their July 2004 meeting. Since that time, the Commission has found that further clarification and information is needed in the rules.

These proposed rules clarify the petition submission process, information needed by the Commission for compliance monitoring and oversight, how public hearings before the Commission will be conducted, and the format of all petitions that are submitted to the Commission.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To confer a benefit. The clarifications set out in these amendments will make it easier for petitioners to understand what is needed when they file petitions with the Commission and what will be expected once they are chartered by the Commission.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the amendments are non-controversial in nature and affect only those entities who will be appearing before the Commission.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Karen Echeverria at (208) 332-1567.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 25, 2005.

DATED this _____ day of March, 2005.

Karen L. Echeverria
Policy and Governmental Affairs Officer
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**IDAPA 08
TITLE 03
CHAPTER 01**

08.03.01 - Rules of the Public Charter School Commission

204. -- ~~9299~~. (RESERVED).

300. PETITION - SUBMISSION.

01. Number of Copies. Petitioners shall submit a petition consisting of an unbound original application package and twelve (12) unbound, three-hole punched, copies of the application package to the Commission and an electronic copy of the petition in word format. ()

02. Case Number. The Commission will assign a case number to a petition. Any future documents or correspondence submitted to the Commission after original filing must reference the assigned case number. ()

03. Administratively Complete. If the petition is not administratively complete when received, the Commission shall provide the petitioner notice of the deficiency, which identifies the missing documents and information. Administratively complete means the petition contains all of the information and documents required by Title 33, Chapter 52, Idaho Code, and IDAPA 08.02.04, "Rules Governing Public Charter Schools." ()

04. Considered Received. A petition is considered received by the Commission when it is presented to the Commission at the first scheduled meeting after the petition is filed and the petition is administratively complete. ()

05. Supplemental Information. Submission of supplemental information to the Commission shall be accomplished by filing only the pages being amended, with the text to be removed stricken and the new language underlined, with the page number of the page to be replaced at the bottom center of the page and the month and year of revision in the bottom left hand corner of the page. ()

06. Sufficiency Review. Petitioners shall submit a copy of the State Department of Education's sufficiency review, which is required by IDAPA 08.02.04, "Rules Governing Public Charter Schools," Subsection 200.03, and any related documents addressing the deficiencies, if any, at the time the petition is filed with the Commission. ()

07. School District Comments. If applicable, petitioners may provide comments of the school district where the public charter school will be physically located. ()

08. Workshop Attendance. Petitioners shall submit proof of attendance at the State Department of Education workshop, which is required by IDAPA 08.02.04.200.01 and 02. ()

301. COMPLIANCE MONITORING.

The Commission shall be responsible for ensuring the public charter school operates in accordance with all of the terms and conditions of the approved charter, including compliance with all applicable federal and state education standards and all applicable state and federal laws, rules and regulations, and policies. See IDAPA 08.02.04, "Rules Governing Public Charter Schools." Subsection 301.01. Commission staff will make a site visit and verify the existence of the following documents after the charter is granted:

01. Certificate Of Occupancy. Certificate of Occupancy for the public charter school site no later than thirty (30) days prior to the opening of the school; ()

02. Building Inspection Reports. A copy of the inspection report from the Idaho Division of Building Safety to be submitted no later than thirty (30) days before the school initially opens and then within seven (7) days of receipt, thereafter; ()

03. Lease Agreement. If school structures are being leased, a copy of the lease agreement for the building(s) at which students will be taught; ()

04. Fire Marshal Report. A fire marshal report for the public charter school site; ()

05. Financial Statements. Audited financial statements from an independent auditor must be submitted as required by Section 33-701, Idaho Code; ()

06. Reports. Copies of the following reports within five (5) business days of said reporting being submitted; ()

a. All reports submitted to the State Department of Education including, but not limited to, the Idaho Basic Education Data System ("IBEDS"); ()

b. All reports submitted to the Board; and ()

c. All reports submitted to federal education agencies including, but not limited to, reports required by the No Child Left Behind Act and the Individuals with Disabilities Education Act. ()

07. Accreditation Reports. A copy of the public charter school's accreditation report must be submitted within five (5) business days of receipt. See Section 33-5206(7), Idaho Code; ()

08. Complaints. Copies of any complaints filed against the public charter school including, but not limited to, lawsuits and complaints filed with the Idaho Professional Standards Commission relating to school employees, within five (5) business days of receipt; ()

09. Insurance Binders. Copies of the initial insurance binders from a company authorized to do business in Idaho for a liability policy, a property loss policy, worker's compensation insurance, and unemployment insurance no later than thirty (30) days prior to the opening of school and thereafter, thirty (30) days before the expiration of the insurance policies; ()

10. Board Members. A current list of all public charter school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; ()

11. Goals Attainment. Reporting to be submitted by the close of the school year demonstrating the students' level of attainment of the established skills and knowledge specified as goals in the public charter school's educational program. See Section 33-5206(7), Idaho Code; ()

12. Programmatic Operations Audit. An audit of the programmatic operations of the public charter school as required by Section 33-5205(3)(j), Idaho Code, must be submitted no later than October 15th for the previous school year. See Section 33-5206(7), Idaho Code; ()

13. Health District Inspection Certificate. A copy of the health certificate issued by the health district for each site at which students will be taught; ()

14. Proof Of Compliance. Proof the public charter school board is in compliance with all federal, state, and local rules, regulations, and statutes relating to education, health, safety, and insurance at least thirty (30) days before the first day of operation of the public charter school for each school year; ()

15. Criminal History Checks. A copy of the criminal history checks for all employees as required by Sections 33-130 and 33-5210(d), Idaho Code, no later than thirty (30) days prior to the first day of school; ()

16. Instructional Staff Certification. Proof of certification for all instructional staff employed by the public charter school must be submitted no later than thirty (30) days prior to the first day of school; and ()

17. School Calendar, Daily Schedule, And Instructional Hours. Ninety (90) days before the commencement of each school year, documentation must be submitted to the Commission detailing the school's calendar for the school year, daily schedule, and documentation of the appropriate number of instructional hours for students at each grade level. ()

302. -- 399. (RESERVED).

400. PETITION – PUBLIC HEARING.

A meeting open to the public, as required by Section 33-5205(2), Idaho Code, for consideration of a petition on its merits shall be conducted by the Commission as follows. See Section 67-5242, Idaho Code. The Commission will: ()

01. Charter Provisions. Consider the provisions of the public school charter petition. ()

02. Petition Merits. Consider the merits of the petition including, but not limited to, the presentation by authorized representatives for the petition. ()

03. Petition Support. Consider the level of employee and parental support of the petition. ()

04. School District Comment. Hear any oral or written comments of an authorized representative of the school district in which the proposed public charter school would be physically located. ()

05. Public Comment. Citizens intending to testify must notify the Commission the day of the meeting. Public comment will be limited to ten (10) minutes, unless otherwise determined by the Commission chairman. ()

401. PETITION - FORMAT.

All petitions submitted to the Commission must be in the following format. Information will only be considered if it is located in the correct section. ()

01. Cover Page. The cover page must include the following information: ()

a. Name of proposed charter school; ()

b. School year petitioning to open the school; ()

c. Name of the school district where the public charter school building will be physically located or whether it is a virtual school and the physical location of the main office; and ()

d. Name, address, telephone number, fax number, and email address of the petitioner's authorized representative. ()

- 02.** Table of Contents. The second page shall be the table of contents. ()
- 03.** Tab 1. ()
- a.** Copies of articles of incorporation, file-stamped by the Idaho Secretary of State's Office; and of the signed bylaws adopted by the board of directors of the nonprofit corporation. See Section 33-5204(1), Idaho Code. ()
- b.** Signatures of at least thirty (30) qualified electors of the proposed charter school's service area. Proof of qualification of electors must be attached. See Section 33-5205(1)(a), Idaho Code. ()
- c.** Mission statement. ()
- 04.** Tab 2. The petitioner's information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided, and the potential civil liability effects upon the public charter school and upon the authorized chartering entity. See Section 33-5205(4), Idaho Code. ()
- 05.** Tab 3. ()
- a.** A description of the public charter school's educational program and goals, including how each of the educational thoroughness standards, as defined in Section 33-1612, Idaho Code, shall be fulfilled. See Section 33-5205(3)(a), Idaho Code. ()
- b.** A description of what it means to be an "educated person" in the twenty-first century, and how learning best occurs. See Section 33-5205(3)(a), Idaho Code. ()
- c.** The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal Individuals with Disabilities Education Act. See Section 33-5205(3)(q), Idaho Code. ()
- d.** The manner by which eligible students from the public charter school shall be allowed to participate in dual enrollment in non-charter schools within the same district as the public charter school, as provided for in Section 33-203(7), Idaho Code. See Section 33-5205(3)(r), Idaho Code. ()
- 06.** Tab 4. ()
- a.** The measurable student educational standards the public charter school will use. See Section 33-5205(3)(b), Idaho Code. ()
- b.** The method by which student progress in meeting the identified student educational standards is to be measured. See Section 33-5205(3)(c), Idaho Code. ()
- c.** A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students. See Section 33-5205(3)(d), Idaho Code. ()
- d.** A provision that ensures that the public charter school shall be state accredited as provided by rule of the Board. See Section 33-5205(3)(e), Idaho Code, and IDAPA 08.02.02, "Rules Governing Uniformity," Section 140. ()
- e.** A provision describing the school's plan if it is ever identified as an in need of improvement school as outlined in the No Child Left Behind Act. ()
- 07.** Tab 5. ()

a. A description of the governance structure of the public charter school including, but not limited to, the persons or entity who shall be legally accountable for the operation of the public charter school. See Section 33-5205(3)(f), Idaho Code. ()

b. The process to be followed by the public charter school to ensure parental involvement. See Section 33-5205(3)(f), Idaho Code. ()

c. The manner in which an annual audit of the financial and programmatic operations of the public charter school will be conducted. See Section 33-5205(3)(j), Idaho Code. ()

d. The procedures to be followed by the public charter school and the authorizing chartering entity to resolve disputes relating to provisions of the charter. See Section 33-5205(3)(p), Idaho Code. Recommended provision regarding dispute resolution is as follows: The Public Charter School Commission and [Name of School] will resolve disputes relating to provisions of the charter following the procedures set forth in Section 33-5209, Idaho Code, and the applicable rules of the State Board of Education for notice of defect and submission of a corrective action plan. ()

08. Tab 6. ()

a. The qualifications to be met by individuals employed by the public charter school. This should include a requirement for all staff members to submit to a criminal history check, as required by Section 33-130, Idaho Code, and that all instructional staff shall be certified teachers, as required by the Board. See Section 33-5205(3)(g), Idaho Code. ()

b. The procedures that the public charter school will follow to ensure the health and safety of students and staff. See Section 33-5205(3)(h), Idaho Code. ()

c. A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, and worker's compensation insurance. See Section 33-5205(3)(l), Idaho Code. ()

d. A description of the transfer rights of any employee choosing to work in a public charter school and the rights of such employees to return to any non-charter public school in the school district after employment at a public charter school. See Section 33-5205(3)(n), Idaho Code. ()

e. A provision that ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining. See Section 33-5205(3)(o), Idaho Code. ()

f. A statement that all teachers and administrators will be on written contract as required by Section 33-5206(4), Idaho Code. ()

09. Tab 7. ()

a. Admission procedures, including provision for over enrollment. See Section 33-5205(3)(i), Idaho Code. ()

b. The disciplinary procedures that the public charter school will utilize, including the procedure by which students, including special education students, may be suspended, expelled, and reenrolled. See Section 33-5205(3)(k), Idaho Code. ()

c. The procedures required by Section 33-210, Idaho Code, for students using or under the influence of alcohol or controlled substances. ()

d. The public school attendance alternative for students residing within the school district who choose not to attend the public charter school. See Section 33-5205(3)(m), Idaho Code. ()

e. The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school. See Section 33-5205(3)(s), Idaho Code. ()

f. The student handbook that describes the school rules and the procedure ensuring a student's parent or guardian has access to this handbook. ()

10. Tab 8. ()

a. A detailed business plan including: ()

i. Business description. ()

ii. Marketing plan. ()

iii. Management plan. ()

iv. Resumes of the directors of the nonprofit corporation. ()

v. The school's financial plan. ()

vi. Start-up budget with assumptions form. ()

vii. Three (3)-year operating budget form, and ()

viii. First year month-by-month cash flow form. ()

b. The school's budget must be in the Idaho Financial Accounting Reporting Management System (IFARMS) format. ()

c. A proposal for transportation services with an estimated first year cost as required by Section 33-5208(4), Idaho Code. ()

d. Plans for a school lunch program, including how a determination of eligibility for free and reduced price meals will be made. ()

11. Tab 9. If this is a virtual public charter school, a brief description of how the school meets the definition of a public virtual school as defined by Section 33-5202A(6), Idaho Code. ()

12. Tab 10. ()

a. A description of any business arrangements or partnerships with other schools, educational programs, businesses, or nonprofit organizations, and copies of any contracts or lease agreements. ()

b. Additional information the petitioners want the authorizing chartering entity to consider as part of the petition. ()

c. Plan for termination of the charter by the board of the public charter school including: ()

i. Identification of who is responsible for the dissolution of the corporation. ()

ii. A plan for the disposal of the public charter school's assets. ()

iii. A description on how payment to creditors will be handled. ()

iv. A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school. ()

402. – 999. **(RESERVED).**